

Application No.: 09/808,006Docket No.: 1509-148**REMARKS**

Claims 11, 12, 15 and 18 have been canceled solely to expedite prosecution, claim 13 now depends on claim 1 and claim 19 has been amended to obviate the rejections based on 35 USC 112, ¶1. Since claims 11, 12, 15 and 18 have been canceled the rejection thereof under 35 USC 112, ¶1 is moot. Because claim 13 did not directly include the "without a call being received" limitation, the rejection thereof under 35 USC 112, ¶2 is now obviated. Applicant has amended independent claims 1, 14 and 19 to replace "passing" with -pushing-, claims 17 and 19 have been amended to replace "transmitting" with -pushing--.

Amended claims 1-6 and 8-10 are patentable under Lazaridis (US 6,219,694) in view of Shaffer (US 6,021,114) and further in view of Brill et al (US 6,389,276) and amended claims 13 and 19 are patentable over Brilla in view of Lazaridis and amended claims 16, 17 and 20 are patentable over Brilla in view of Shaffer et al. In rejecting claims 1-6 and 8-10, the Examiner argues that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Lazaridis and Shaffer systems by receiving and recording a voice message in response to an uncompleted call as taught by Brilla et al so that the caller can leave important messages for the subscriber if the subscriber was not reached. In rejecting claim 19, the Examiner says Brill discloses all features except passing a data message without a call being made from a mobile entity. He says Lazaridis et al discloses this feature that would obviously be combined with Brilla. In rejecting claims 14, 17 and 20, the Examiner says Brilla discloses all features except passing a data message to a mobile entity at a non-peak traffic loading time. He says it would have been obvious from Shaffer to include this feature in Brilla. The Examiner rejects claim 7 as being obvious from Lazaridis et al, Shaffer et al., Brilla et al., and Hickman (US 2001/0033564).

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Hickman is relied on for converting a voice message to text and incorporating the converted message in text format into an e-mail message.

All of the foregoing rejections are rendered moot by the present amendment which requires "pushing" the data message. A person of ordinary skill in the art would understand the term "push" to mean that the pushing entity sends data without being asked to do so from the intended recipient. In contrast, the term "pull" is understood by a person of ordinary skill in the art to mean that the intended recipient requests the data to be sent.

In standard voice mail applications, a user simply calls his/her voicemail box whenever convenient to have the recorded message played back over a voice circuit.

In Lazaridis, e-mail messages sent to a user's desktop are redirected to the user's mobile device, but are only sent upon the occurrence of a predetermined trigger event. Although the e-mail may have an attached audio file, there is no disclosure of the e-mail or audio file being the result of a failed voice call to the user's mobile device. Lazaridis has no disclosure of applicant's claimed feature of pushing towards a recipient's mobile device, a data message corresponding to a voice message recorded as a result of a failed voice call to a recipient's mobile device.

In rejecting to claim 7, the Examiner incorrectly says Lazaridis discloses "transferring to a service system a voice call made towards the mobile entity." Although Lazaridis discloses emails with audio attachments, one of ordinary skill in the art would not interpret a "pushed" data message to be a "voice call." A "voice call" is implicitly something that takes place in real time.

Shaffer discloses a communication switch that delays sending data files until traffic levels fall below a certain threshold. However such delays are only relevant where a decision has already been made to send a data file. Shaffer has no disclosure of pushing a data message corresponding to a voice message recorded as a result of a failed voice call, as is defined by Applicant's independent

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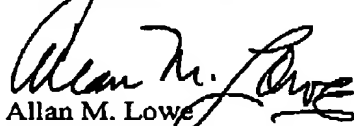
claims. Furthermore, Brilla et al merely discloses sending an e-mail from a conventional landline-based voice mail system to a mobile network to enable the mobile network to send a notification to the mobile device concerned for immediate notification of the device user that a voice mail is waiting. The user must then contact the voicemail system to retrieve (pull) the message. Such message pulling, i.e., retrieval, differs from Applicant's claimed feature of a data message corresponding to a voice message recorded as a result of a failed voice call to a user's mobile device being pushed towards the called mobile device.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance are respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP


Allan M. Lowe
Registration No. 19,641

Customer Number: 22429
1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
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AML/pjc

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